

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 19, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RICHARD L.-N.,

Plaintiff,

v.

ANDREW M. SAUL,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 1:19-CV-3199-JTR

ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

BEFORE THE COURT are cross-motions for summary judgment. ECF No. 14, 15. Attorney D. James Tree represents Richard L.-N. (Plaintiff); Special Assistant United States Attorney Leisa Wolf represents the Commissioner of Social Security (Defendant). The parties have consented to proceed before a magistrate judge. ECF No. 6. After reviewing the administrative record and the briefs filed by the parties, the Court **GRANTS** Defendant's Motion for Summary Judgment and **DENIES** Plaintiff's Motion for Summary Judgment.

JURISDICTION

Plaintiff filed an application for Supplemental Security Income on November 7, 2016, alleging disability since September 1, 2008,¹ due to hallucinations/voices, anxiety/depression, PTSD, anger disorder, concentration issues, agoraphobia, antisocial personality disorder, borderline personality disorder, neck and back problems, and right shoulder problems. Tr. 270-71. The application was denied initially and upon reconsideration. Tr. 467-75, 483-89. Administrative Law Judge (ALJ) Glenn Meyers held a hearing on July 11, 2018, Tr. 58-112, and issued an unfavorable decision on October 17, 2018. Tr. 16-30. Plaintiff requested review from the Appeals Council and the Appeals Council denied the request on July 1, 2019. Tr. 1-5. The ALJ's October 2018 decision became the final decision of the Commissioner, which is appealable to the district court pursuant to 42 U.S.C. § 405(g). Plaintiff filed this action for judicial review on August 27, 2019. ECF No. 1.

STATEMENT OF FACTS

Plaintiff was born in 1970 and was 46 years old as of the filing of his application. Tr. 29. He did not complete high school but later obtained his GED. Tr. 85, 2392, 2420. He has a limited work history, primarily composed of self-employed lawn work and various other short-term positions. Tr. 643, 691, 778. He has a long history of mental health impairments and was previously found to be disabled under Social Security's rules. Tr. 113-27. He is currently alleging disability based on mental impairments along with neck and shoulder pain and abdominal pain.

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¹ Plaintiff later amended his alleged onset date to the date of the filing of his application. Tr. 35.

STANDARD OF REVIEW

The ALJ is responsible for determining credibility, resolving conflicts in medical testimony, and resolving ambiguities. *Andrews v. Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995). The ALJ's determinations of law are reviewed *de novo*, with deference to a reasonable interpretation of the applicable statutes. *McNatt v. Apfel*, 201 F.3d 1084, 1087 (9th Cir. 2000). The decision of the ALJ may be reversed only if it is not supported by substantial evidence or if it is based on legal error. *Tackett v. Apfel*, 180 F.3d 1094, 1097 (9th Cir. 1999). Substantial evidence is defined as being more than a mere scintilla, but less than a preponderance. *Id.* at 1098. Put another way, substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Richardson v. Perales*, 402 U.S. 389, 401 (1971). If the evidence is susceptible to more than one rational interpretation, the Court may not substitute its judgment for that of the ALJ. *Tackett*, 180 F.3d at 1097; *Morgan v. Commissioner of Social Sec. Admin.*, 169 F.3d 595, 599 (9th Cir. 1999). If substantial evidence supports the administrative findings, or if conflicting evidence supports a finding of either disability or non-disability, the ALJ's determination is conclusive. *Sprague v. Bowen*, 812 F.2d 1226, 1229-1230 (9th Cir. 1987). Nevertheless, a decision supported by substantial evidence will be set aside if the proper legal standards were not applied in weighing the evidence and making the decision. *Browner v. Secretary of Health and Human Services*, 839 F.2d 432, 433 (9th Cir. 1988).

SEQUENTIAL EVALUATION PROCESS

The Commissioner has established a five-step sequential evaluation process for determining whether a person is disabled. 20 C.F.R. § 416.920(a); *Bowen v. Yuckert*, 482 U.S. 137, 140-142 (1987). In steps one through four, the burden of proof rests upon the claimant to establish a prima facie case of entitlement to disability benefits. *Tackett*, 180 F.3d at 1098-1099. This burden is met once a claimant establishes that a physical or mental impairment prevents the claimant

1 from engaging in past relevant work. 20 C.F.R. § 416.920(a)(4). If a claimant
 2 cannot perform past relevant work, the ALJ proceeds to step five, and the burden
 3 shifts to the Commissioner to show (1) the claimant can make an adjustment to
 4 other work; and (2) the claimant can perform specific jobs that exist in the national
 5 economy. *Batson v. Comm'r of Soc. Sec. Admin.*, 359 F.3d 1190, 1193-94 (9th Cir.
 6 2004). If a claimant cannot make an adjustment to other work in the national
 7 economy, the claimant will be found disabled. 20 C.F.R. § 416.920(a)(4)(v).

8 ADMINISTRATIVE DECISION

9 On October 17, 2018, the ALJ issued a decision finding Plaintiff was not
 10 disabled as defined in the Social Security Act.

11 At step one, the ALJ found Plaintiff had not engaged in substantial gainful
 12 activity since the application date. Tr. 18.

13 At step two, the ALJ determined Plaintiff had the following severe
 14 impairments: spinal impairment, right shoulder impairment, cirrhosis of the liver,
 15 esophageal varices, obesity, affective disorder, anxiety disorder (including post-
 16 traumatic stress disorder), personality disorder, and substance use disorder. Tr. 19.

17 At step three, the ALJ found Plaintiff did not have an impairment or
 18 combination of impairments that met or medically equaled the severity of one of
 19 the listed impairments. Tr. 19-21.

20 The ALJ assessed Plaintiff's Residual Functional Capacity (RFC) and found
 21 he could perform a range of light exertional work, with the following specific
 22 limitations:

23 he can occasionally reach overhead. He can frequently reach at or
 24 below shoulder level. He cannot crawl, kneel, or climb. He can
 25 occasionally stoop and crouch. He is capable of engaging in unskilled,
 26 routine, and repetitive tasks in two-hour increments. He is capable of
 27 working in proximity to coworkers but not in coordination with them.
 28 He can have occasional contact with supervisors and no contact with

1 the general public. He will be off-task up to ten percent of his work
2 shifts.

3 Tr. 21.

4 At step four, the ALJ found Plaintiff had no past relevant work. Tr. 29.

5 At step five, the ALJ determined that, based on the testimony of the
6 vocational expert, and considering Plaintiff's age, education, work experience, and
7 RFC, Plaintiff was capable of performing jobs that existed in significant numbers
8 in the national economy, including the jobs of electrical accessory assembler,
9 production assembler, and packager. Tr. 29-30.

10 The ALJ thus concluded Plaintiff was not under a disability within the
11 meaning of the Social Security Act at any time from the application date through
12 the day of the decision. Tr. 30.

13 ISSUES

14 The question presented is whether substantial evidence supports the ALJ's
15 decision denying benefits and, if so, whether that decision is based on proper legal
16 standards.

17 Plaintiff contends the ALJ erred by (1) improperly rejecting Plaintiff's
18 symptom complaints; (2) improperly evaluating the medical opinion evidence; and
19 (3) improperly rejecting a lay witness statement.

20 DISCUSSION

21 1. Plaintiff's symptom statements

22 Plaintiff alleges the ALJ erred in rejecting his symptom testimony without
23 providing adequate reasons. ECF No. 14 at 9-13.

24 The ALJ found Plaintiff's medically determinable impairments could
25 reasonably be expected to cause the alleged symptoms; however, he found
26 Plaintiff's statements concerning the intensity, persistence and limiting effects of
27 his symptoms were not entirely consistent with the medical evidence and other
28 evidence in the record. Tr. 22. Specifically, the ALJ found Plaintiff's longstanding

1 psychological issues had not prevented gainful work activity when he was being
2 treated; his mental conditions were adequately controlled with medication; the
3 record reflected generally normal psychological findings; his activities were
4 inconsistent with his allegations; and the records indicated a lack of reliability of
5 his self-reporting, including inconsistent statements about symptoms, some
6 evidence of embellishment or possible malingering, misreporting and
7 noncompliance regarding the use of his medications, misreporting of his substance
8 abuse history, and unreliable testimony regarding his work. Tr. 22-26.

9 Plaintiff argues the ALJ's interpretation of the facts is not supported by
10 substantial evidence, and that he improperly relied on largely outdated evidence
11 and disregarded evidence and objective findings that suggest an alternative
12 outcome. ECF No. 14 at 9-13. Defendant argues the ALJ's rationale is supported
13 by substantial evidence and Plaintiff is merely offering a different view of the
14 evidence. ECF No. 15 at 3-14.

15 The Court finds the ALJ offered clear and convincing reasons for
16 discounting Plaintiff's allegations.

17 *a. Standard*

18 It is the province of the ALJ to make credibility determinations. *Andrews v.*
19 *Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995). However, the ALJ's findings must be
20 supported by specific cogent reasons. *Rashad v. Sullivan*, 903 F.2d 1229, 1231 (9th
21 Cir. 1990). Absent affirmative evidence of malingering, the ALJ's reasons for
22 rejecting a claimant's testimony must be "specific, clear and convincing." *Smolen*
23 *v. Chater*, 80 F.3d 1273, 1281 (9th Cir. 1996); *Lester v. Chater*, 81 F.3d 821, 834
24 (9th Cir. 1995).

25 Defendant objects to the clear and convincing standard, arguing it is
26 inconsistent with the deferential substantial evidence standard, as well as agency
27 regulations and rulings. ECF No. 15 at 4 n.1. The clear and convincing standard
28 remains binding law in the Ninth Circuit, and the government's invitations to apply

1 a lesser standard have been routinely rejected by the circuit court. *See e.g.*,
2 *Garrison v. Colvin*, 759 F.3d 995, 1015 n.18.

3 In his Reply Brief, Plaintiff asserts Defendant's position objecting to the
4 clear and convincing standard necessitates remand on its face, as it indicates
5 Agency policy contradicts controlling case law, thus showing the ALJ applied the
6 wrong legal standard in adjudicating Plaintiff's claim. ECF No. 16 at 2-5. The
7 Court finds this argument to be without merit.

8 First, Plaintiff incorrectly interprets Defendant's position. Plaintiff states the
9 Commissioner suggested "that the ALJ used a deferential substantial evidence
10 standard in assessing the weight given to [Plaintiff's] testimony." ECF No. 16 at 3.
11 Defendant raised the Commissioner's standing objection to the clear and
12 convincing standard, but asserted "Regardless, this case readily passes the test."
13 ECF No. 15 at 4 n.1. Therefore, Defendant did not suggest that the ALJ in this case
14 applied a lesser standard than required by law.

15 Second, Plaintiff argues that an ALJ must be assumed to have followed
16 agency policy, including agency policy that is contrary to controlling case law,
17 thus rendering the decision invalid as it is based on an error of law. ECF No. 16 at
18 4. This argument is contrary to harmless error precedent. *Tommasetti v. Astrue*,
19 533 F.3d 1035, 1038 (9th Cir. 2008) (an error is harmless when "it is clear from the
20 record that the . . . error was inconsequential to the ultimate nondisability
21 determination"). Even if the Court presumes the ALJ did not intend to offer clear
22 and convincing reasons for discounting Plaintiff's allegations, if he nonetheless did
23 provide clear and convincing reasons, then he still complied with controlling case
24 law. Furthermore, Plaintiff's position would lead to the inappropriate result of
25 every ALJ decision in this circuit being remanded until such time as the agency
26 issued an Acquiescence Ruling adopting the clear and convincing standard, as
27 every decision would be based on an error of law in agency policy.

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1 *b. Inconsistencies*

2 The ALJ found a number of Plaintiff's reports to be unreliable, including
3 instances of inconsistent statements regarding his symptoms and how long they
4 had affected him, evidence of embellishment of symptoms or suspected
5 malingering, lying to his providers about medication compliance, inconsistent
6 reports about his substance use, and his testimony regarding his work appearing
7 inconsistent with the records. An ALJ may consider inconsistent statements by a
8 claimant in assessing his credibility. *Tonapetyan v. Halter*, 242 F.3d 1144, 1148
9 (9th Cir. 2001). While Plaintiff offers alternative interpretations for some of these
10 incidents, the ALJ reasonably considered the record and various pieces of
11 contradictory evidence that call into question the reliability of Plaintiff's symptom
12 statements in general.

13 *c. Mental health symptoms controlled*

14 The ALJ found the treatment records indicated Plaintiff's mental health
15 conditions were under adequate control with medications and the records indicated
16 generally normal psychological findings after the alleged onset date. Tr. 23. An
17 ALJ may consider the treatment received and effectiveness of that treatment in
18 evaluating a claimant's allegations. Social Security Ruling 16-3p. The ALJ may
19 also consider the objective findings in the record and their consistency with the
20 claimant's reports, though this cannot be the only reasons the ALJ gives. *Rollins v.*
21 *Massanari*, 261 F.3d 853, 857 (9th Cir. 2001). The ALJ pointed to numerous
22 treatment records reflecting Plaintiff's reports of improvement on his medications
23 and largely normal mental status exams. Tr. 23-24. Plaintiff argues the notations of
24 improvement or normal findings do not mean that Plaintiff was no longer seriously
25 impaired, as he continued to report anxiety, paranoia, and hallucinations. ECF No.
26 14 at 12. "When the evidence is susceptible to more than one rational
27 interpretation, we must uphold the ALJ's findings if they are supported by
28 inferences reasonably drawn from the record." *Molina v. Astrue*, 674 F.3d 1104,

1 1111 (9th Cir. 2012). The ALJ's interpretation of the record is supported by
2 substantial evidence.

3 *d. Activities*

4 A claimant's activities may support an adverse credibility finding if the
5 activities contradict his other testimony. *Orn v. Astrue*, 495 F.3d 625, 639 (9th Cir.
6 2007). The ALJ noted Plaintiff worked and attended group therapy classes, did
7 yard work, and was involved with his grandchildren. Tr. 25. The ALJ found these
8 activities to be inconsistent with Plaintiff's testimony of "severely impaired
9 concentration, intolerance of social interaction, frequently inappropriate behavior,
10 or disabling pain symptoms." *Id.* It is not clear that these activities demonstrate any
11 actual conflict with Plaintiff's allegations, particularly given the conflicting
12 evidence regarding his work activity. Tr. 68-73, 85-88. Occasional yardwork and
13 spending time with his grandchild do not indicate any clear contradiction with his
14 allegations. However, because the ALJ offered other clear and convincing reasons
15 for discounting Plaintiff's testimony, any error was harmless. *Carmickle v. Comm'r*
16 *Soc. Sec. Admin*, 533 F.3d 1155, 1163 (9th Cir. 2008) (upholding an adverse
17 credibility finding where the ALJ provided four reasons to discredit the claimant,
18 two of which were invalid).

19 **2. Medical opinion evidence**

20 Plaintiff argues the ALJ improperly weighed the opinion evidence, giving
21 undue weight to the opinions from Dr. Crank and Dr. Cline. ECF No. 14 at 14-17.

22 When a treating or examining physician's opinion is contradicted by another
23 physician, the ALJ is required to provide "specific and legitimate reasons," based
24 on substantial evidence, to reject the opinion. *Andrews v. Shalala*, 53 F.3d 1035,
25 1041 (9th Cir. 1995); *Lester v. Chater*, 81 F.3d 821, 830-31 (9th Cir. 1995). The
26 specific and legitimate standard can be met by the ALJ setting out a detailed and
27 thorough summary of the facts and conflicting clinical evidence, stating his
28 interpretation thereof, and making findings. *Magallanes v. Bowen*, 881 F.2d 747,

1 751 (9th Cir. 1989). The ALJ is required to do more than offer his conclusions, he
2 “must set forth his interpretations and explain why they, rather than the doctors’,
3 are correct.” *Embrey v. Bowen*, 849 F.2d 418, 421-22 (9th Cir. 1988).

4 *a. Dr. Crank, treating doctor*

5 Plaintiff argues the ALJ improperly rejected the opinion from Plaintiff’s
6 treating provider, Dr. Crank. ECF No. 14 at 14-16.

7 Dr. Crank completed a disability certification form for the state Department
8 of Social and Health Services in September 2016. Tr. 2386-90. He noted Plaintiff’s
9 complaints included shoulder pain, chronic abdominal pain, and neck pain, and
10 found him markedly impaired by each of these conditions. Tr. 2386-87. He opined
11 Plaintiff was limited to sedentary work. Tr. 2388.

12 The ALJ gave the opinion minimal weight, noting Dr. Crank’s only stated
13 basis for the assessed limitations was a cursory reference to range of motion
14 testing, and that he offered no explanation for how the findings justified the
15 limitations. Tr. 27. The ALJ further noted Dr. Crank offered no definitive
16 diagnoses other than Plaintiff’s pain complaints, which the ALJ found unreliable.
17 *Id.*

18 Plaintiff argues the ALJ mis-identified Dr. Crank as an examining source
19 instead of a treating source, thus compelling remand due to incorrect assessment of
20 the nature of the treatment relationship. ECF No. 14 at 14-15. Plaintiff further
21 argues that the ALJ failed to consider the treatment records from the day the form
22 was completed, which provided a further basis for the limitations assessed other
23 than just the range of motion testing. *Id.* at 15. Finally, Plaintiff argues the opinion
24 was not based only on Plaintiff’s subjective reports, but rather also on Dr. Crank’s
25 observations, diagnoses, and treatment plans. *Id.* at 16. Defendant argues any
26 mistake in the identification of Dr. Crank as an examining source was harmless
27 because the ALJ did not disregard the opinion on this basis, and in the same
28 paragraph the ALJ noted Dr. Crank’s treatment records. ECF No. 15 at 15-16.

1 Defendant further argues that the ALJ reasonably interpreted the record as lacking
2 sufficient explanation and diagnoses to support the opinion, indicating the doctor
3 must have relied on Plaintiff's subjective complaints, which are not reliable. *Id.* at
4 16-18.

5 The Court finds the ALJ did not err. An ALJ must consider the
6 supportability of a medical source opinion: "The more a medical source presents
7 relevant evidence to support a medical opinion, particularly medical signs and
8 laboratory findings, the more weight we will give that medical opinion. The better
9 an explanation a source provides for a medical opinion, the more weight we will
10 give that medical opinion." 20 C.F.R. § 416.927. The ALJ reasonably concluded
11 that Dr. Crank's opinion was lacking in explanation of the basis for the limitations.
12 The form lists Plaintiff's pain complaints but does not contain any specific
13 diagnoses or explanation for how the observed symptoms justify the limitation to
14 sedentary work. Tr. 2386-87. The form and the accompanying treatment records
15 indicated that further testing and evaluation were necessary, including imaging and
16 a possible referral to a neurologist. Tr. 2388, 2449. The ALJ therefore reasonably
17 concluded that Dr. Crank's opinion was lacking in sufficient explanation and
18 objective support.

19 The Court further finds the ALJ's error in referring to Dr. Crank as an
20 examining source was harmless. As Defendant noted, the ALJ did not state he was
21 disregarding Dr. Crank's opinion on this basis, and later in the paragraph referred
22 to the treatment notes from the same day. Tr. 27. Furthermore, the Court notes that
23 the form was completed at Plaintiff's first visit with Dr. Crank. Tr. 2449.
24 Therefore, Plaintiff's string cite to Dr. Crank's extensive treatment relationship is
25 irrelevant to the evaluation of the opinion, as all of the treatment occurred after the
26 form was completed.

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1 *b. Dr. Cline, examining doctor*

2 Plaintiff asserts the ALJ improperly rejected the opinion from consultative
3 examiner Dr. Cline. ECF No. 14 at 16-17.

4 Dr. Cline examined Plaintiff in September 2016. Tr. 2391-96. Dr. Cline
5 diagnosed Plaintiff with borderline personality disorder, antisocial personality
6 disorder, PTSD, persistent depressive disorder, and unspecified anxiety related
7 disorder with features of generalized anxiety disorder and panic disorder. Tr. 2393.
8 She opined he had moderate limitations in most areas of work-related functioning,
9 but was markedly limited in communicating and performing effectively,
10 maintaining appropriate behavior, and completing a normal workweek without
11 interruptions from psychiatric symptoms. Tr. 2394. She indicated she believed
12 these limitations would last for 9-12 months with appropriate treatment, including
13 counseling and medication. Tr. 2395.

14 The ALJ gave this opinion minimal weight, and found it to be inconsistent
15 with Plaintiff's activities, longitudinal exam findings, and treatment records. Tr.
16 27-28. The ALJ noted Plaintiff's activities of teaching a horticulture class and
17 attending various group therapy classes, conflicts between Plaintiff's reports to Dr.
18 Cline and recent treatment records, and evidence that Plaintiff's impairments
19 improved in the months following Dr. Cline's opinion, including largely normal
20 mental status exam findings and a decrease in his reports of hallucinations. *Id.* The
21 ALJ also noted Dr. Cline limited the duration of her opinion to 9-12 months. *Id.*

22 Plaintiff argues the activities identified by the ALJ did not equate to full time
23 work, and were not inconsistent with Dr. Cline's opinion, as she was commenting
24 on Plaintiff's ability to perform various work-related functions on a sustained
25 ongoing basis. ECF No. 14 at 16. Plaintiff further argues that, as with the analysis
26 of Plaintiff's subjective complaints, the ALJ's discussion of the record as a whole
27 ignored evidence that Plaintiff continued to endorse anxiety, paranoia, and
28 hallucinations. *Id.* at 16-17. Defendant argues that the ALJ reasonably interpreted

1 the records as reflecting improvement in Plaintiff's mental conditions following
2 Dr. Cline's assessment and that Plaintiff's reports to Dr. Cline were contradictory
3 to his reports to his treating providers in the months immediately preceding the
4 evaluation. ECF No. 15 at 19-20.

5 The Court finds the ALJ offered specific and legitimate reasons for
6 discounting Dr. Cline's opinion. A conflict between treatment notes and a treating
7 provider's opinions may constitute an adequate reason to discredit the opinions of
8 a treating physician or another treating provider. *See Molina*, 674 F.3d at 1111-
9 12; *Valentine v. Comm'r of Soc. Sec. Admin.*, 574 F.3d 685, 692-93 (9th
10 Cir.2009) (holding that a conflict with treatment notes is a specific and legitimate
11 reason to reject treating physician's opinion). The ALJ reasonably interpreted the
12 subsequent records as showing improvement and less extreme objective findings in
13 the months following Dr. Cline's opinion.

14 As with the assessment of Plaintiff's subjective claims, any error in the
15 ALJ's interpretation of Plaintiff's activities was harmless as he offered other
16 specific and legitimate rationale for his holding.

17 **3. Third party**

18 Plaintiff argues the ALJ improperly discounted the opinion of Lorri Burns,
19 an SSI facilitator. ECF No. 14 at 17-18.

20 In November 2016, Ms. Burns helped Plaintiff complete his application for
21 SSI. She observed that he had some difficulty understanding and answering
22 questions and difficulty concentrating. Tr. 755. She noted he appeared to be in pain
23 and shifted a lot during the interview. *Id.* She observed he had a flat affect and was
24 polite but seemed cautious and nervous and unsure of himself. Tr. 756.

25 The ALJ gave minimal weight to this statement, noting it to be vague and
26 inconsistent with the record. Tr. 26. The ALJ further noted Plaintiff was not taking
27 his psychiatric medications at the time and that his pain complaints were not
28 reliable. *Id.*

1 An ALJ must give “germane” reasons to discount evidence from a third
2 party “other source.” *Dodrill v. Shalala*, 12 F.3d 915, 919 (9th Cir. 1993). The
3 Court finds the ALJ offered germane reasons for discounting this statement. The
4 statement is vague and does not offer any opinion regarding Plaintiff’s functional
5 abilities, but rather observations of his presentation on a single day. An ALJ need
6 not provide any reasons to reject evidence that is not significant and probative.
7 *Vincent ex rel. Vincent v. Heckler*, 739 F.2d 1393, 1395 (9th Cir. 1984).

8 CONCLUSION

9 Having reviewed the record and the ALJ’s findings, the Court finds the
10 ALJ’s decision is supported by substantial evidence and free of legal error.

11 Therefore, **IT IS HEREBY ORDERED:**

12 1. Defendant’s Motion for Summary Judgment, **ECF No. 15**, is
13 **GRANTED.**

14 2. Plaintiff’s Motion for Summary Judgment, **ECF No. 14**, is **DENIED.**

15 The District Court Executive is directed to file this Order and provide a copy
16 to counsel for Plaintiff and Defendant. Judgment shall be entered for Defendant
17 and the file shall be **CLOSED.**

18 **IT IS SO ORDERED.**

19 DATED August 19, 2020.



A handwritten signature in black ink, appearing to be "M", is written over a horizontal line.

JOHN T. RODGERS
UNITED STATES MAGISTRATE JUDGE